

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LANCE McDERMOTT,

Plaintiff(s),

v.

UNITED STATES POSTAL SERVICE

Defendant(s).

NO. C06-1335P

ORDER ON MOTION FOR
RECONSIDERATION

The above-entitled Court, having received and reviewed:

1. Plaintiff's Motion for a New Trial (Dkt. No. 16)
2. Plaintiff's Motion for Summary Judgment (Dkt. No. 17)

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment, filed after the Court had issued an Order Granting Motion to Dismiss (Dkt. No. 14), is STRICKEN as untimely.

IT IS FURTHER ORDERED that Plaintiff's Motion for a New Trial shall be construed as a Motion for Reconsideration, and that motion is DENIED.

Discussion

Under Local Rule 7(h), "[m]otions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence."

The Court treats Plaintiff's Motion for a New Trial as a motion for reconsideration. The pleading contains no "showing of manifest error in the prior ruling;" in fact, Plaintiff does little more than reassert the arguments and allegations which proved unavailing in the motion to dismiss.

1 To the extent Plaintiff's latest pleading contains any new citations to legal authority, there is no
2 showing that this authority could not have been brought to the Court's attention in his original
3 response to Defendant's motion to dismiss. Nor is his new authority persuasive – Plaintiff perpetuates
4 his failure to establish either injury to himself, a duty owed to him personally under the statutory
5 scheme, or a private right of action under the Postal Reorganization Act. These failures are fatal to his
6 claims.

7 Plaintiff does assert hitherto unalleged facts regarding the EEOC complaints that formed the
8 basis of his proposed amendments (which the Court also denied). His allegations that his EEOC
9 complaints have run their administrative course have no bearing on the basis for this Court's denial of
10 his motion to amend: Plaintiff's proposed amendments still have no legal or factual nexus to the causes
11 of action he asserted originally.

12 Conclusion

13 Plaintiff has failed to demonstrate either manifest error in the Court's prior ruling or the
14 existence of relevant new facts or legal authority which could not, with due diligence, have been
15 provided prior to the complained-of dismissal.

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17 The clerk is directed to provide copies of this order to all counsel of record.

18 Dated: April __20__, 2007

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21 Marsha J. Pechman
22 U.S. District Judge
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